



STATE OF MAINE
JOHN ELIAS BALDACCI
GOVERNOR

DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
LAKE VIEW DRIVE
P.O. BOX 1107
GREENVILLE, MAINE 04441

PATRICK
MCGOWAN
COMMISSIONER

PERMIT

AMENDMENT D TO BUILDING PERMIT BP 6661

The staff of the Maine Land Use Regulation Commission (hereafter, the Commission), after reviewing the application and supporting documents submitted by Russell J. Theriault for Amendment D to Building Permit BP 6661, finds the following facts:

1. Applicant: Russell J. Theriault
PO Box 471
Jackman, ME 04945
2. Date of Completed Application: October 14, 2004
3. Location of Proposal: Rockwood Strip Twp, Somerset County
Taxation Lot #14.1 on Plan 01
4. Zoning: (D-RS) Residential Development Subdistrict
5. Lot Size: 1.49 Acres (owned)
6. Principal Building: Proposed Single-Family Residence (26 ft. by 36 ft.)
With Proposed Attached Wrap-around Porch (10 ft. by 44 ft.; 8 ft. by 32 ft.; 8 ft. by 36 ft.)
7. Accessory Structures: Proposed Attached Garage (24 ft. by 26 ft.)
8. Affected Waterbody: Moose River

Proposal

9. The applicant proposes to alter the dimensions and setbacks of the structures previously permitted as part of Building Permit BP 6661 and subsequent amendments. The applicant now proposes to construct a 26 foot by 36 foot single-family residence with an attached wraparound porch in three sections: 10 feet by 44 feet; 8 feet by 32 feet; and 8 feet by 36 feet. The applicant also proposes to construct an attached 24 foot by 26 foot garage. The structure was previously permitted to be set back 90 feet from the normal high water mark of the Moose River, but the applicant states that due to the odd shape of the lot, he is unable to meet this setback. He also states that when the lot was approved as part of Amendment C to Subdivision Permit SP 281, the minimum setback at that time was only 75 feet from the water body. The applicant proposes that the combined structure be set back 82 feet from water body, at least 50 feet from Maynard Road, and at least 15 feet from all other property lines. The combined structure would be served by an existing combined sewage disposal system.

Background

10. The applicant owns an unnumbered lot, which was designated as 'green space' under the provisions of Subdivision Permit SP 281. The lot also contains a 33 foot right-of-way to be used as a common access route to the Moose River for lot owners within the subdivision.
11. Building Permit BP 6661 was denied by Commission staff in January of 1990. The applicant, Russell Theriault, sought approval to construct a residence with an attached garage on the unnumbered lot. The application was denied because the applicant's deed prohibited the construction of any structures on the unnumbered lot, and therefore the applicant did not possess sufficient right, title, or interest in the parcel to permit construction of the proposed residence.
12. Amendment C to Subdivision SP 281, issued to Donald and Linda Theriault in December of 1991, authorized the removal of the development restriction to the undeveloped lot, allowing it to be sold as a building lot. A Certificate of Compliance was issued to Donald and Linda Theriault in January of 1996 for Subdivision Permit SP 281 and subsequent amendments A through D.
13. Building Permit BP 6661, issued to the applicant in February of 1996, authorized the construction of a permanent home with four attached porches and an attached garage. It also authorized installation of a combined sewage disposal system on Lot #2 of Subdivision Permit SP 281, which is also owned by the applicant and is located across Maynard Road from the unnumbered lot. None of the authorized structures was built, nor was the combined system installed.
14. Amendment A to Building Permit BP 6661, issued to the applicant in March of 2001, granted approval to construct the home with attached porches and garage, which were previously authorized in the expired Building Permit BP 6661. It also again authorized the installation of the combined sewage disposal system on Lot #2. The system has since been installed and a Certificate of Inspection from the Local Plumbing Inspector was submitted to the Commission. The authorized structures were not built.
15. Amendment B to Building Permit BP 6661, issued to the applicant in October of 2002, authorized an extension of the permit expiration date.
16. Amendment C to Building Permit BP 6661, issued to the applicant in April of 2004, authorized an alteration to the dimensions of the previously permitted structures, which still had not been started.

Review Criteria

17. Under provisions of Section 10.26,D of the Commission's Land Use Districts and Standards, the minimum required setbacks are 100 feet from the normal high water mark of waterbodies such as Moose River, 50 feet from roads such as the Maynard Road, and 15 feet from all other property boundary lines.
18. Under provisions of Section 10.11,E,4 of the Commission's Land Use Districts and Standards, when a lot was lawfully created after September 23, 1971, in conformity with the Commission's dimensional requirements applicable at the time, the Commission may waive, to the minimum extent necessary the current dimensional requirements. Waived set backs shall not be reduced below those in effect at the time of creation of the lot.
19. The facts are otherwise as represented in Building Permit BP 6661 and subsequent amendments, Amendment Request D to Building Permit BP 6661, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed combined structure would be a non-conforming structure pursuant the provisions of Section 10.26,D of the Commission's Land Use Districts and Standards.
2. The proposal would meet the criteria for a waiver of the Commission's minimum water body setback under provisions of Section 10.11,E,4 of the Commission's Land Use Districts and Standards. Specifically, the applicant's lot was created in May of 1976 via Subdivision Permit SP 281. The restriction against development was removed from the applicant's title to the lot in February of 1990, prior to the Commission's June 1990 adoption of a 100 foot water body setback. Therefore the setback of the applicant's proposed permanent home may be waived from 100 feet to 82 feet.
3. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Russell J. Theriault with the following conditions:

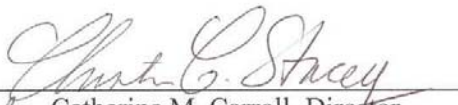
1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
2. All authorized structures must be set back a minimum of 82 feet from the normal high water mark of Moose River, 50 feet from Maynard Road and 15 feet from other property boundary lines.
3. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
4. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.
5. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
6. To protect the scenic quality of Moose River, all authorized structures must not be sited on a ridge or knoll such that they are visible above the tree line from the lake. All authorized structures must be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways or shorelines.
7. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto

neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.

8. The driveway must be located and constructed so that (a) it will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) it will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland or roadway.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 9th DAY OF NOVEMBER, 2004.

By: 
for Catherine M. Carroll, Director